

MONTANA LEGISLATIVE HISTORY

Chapter 403 19 93

Bill H 443 S _____

Original bill & history ☒ C

H. Committee on Education & Cultural Resources S. Committee on Education & Cultural Resources

Hearing Date(s) Feb 10 ☒ C

Hearing Date(s) Mar 08 ☒ C

Feb 15 ☒ C

Mar 19 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Feb 16 ☒ C

Mar 20 _____

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

4/21	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/22	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	66	33
4/22	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	75	24
	SENATE		
4/15	FREE CONFERENCE COMMITTEE APPOINTED		
4/21	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/21	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/22	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
4/24	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/26	TRANSMITTED TO GOVERNOR		
5/03	SIGNED BY GOVERNOR CHAPTER NUMBER 598 EFFECTIVE DATE: 10/01/93		

HB 443 INTRODUCED BY MCCULLOCH, ET AL.

ALLOW SCHOOL DISTRICT TO WITHHOLD GRADES, DIPLOMA OR
TRANSCRIPTS IF PUPIL OWES MONEY

2/03	INTRODUCED		
2/03	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/03	FIRST READING		
2/10	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED		
2/17	2ND READING PASSED	95	4
2/19	3RD READING PASSED	88	9
	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/08	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED	49	0
3/26	3RD READING CONCURRED	33	13
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	95	1
4/02	3RD READING AMENDMENTS CONCURRED	89	10
4/07	SIGNED BY SPEAKER		
4/13	SIGNED BY PRESIDENT		
4/14	TRANSMITTED TO GOVERNOR		
4/19	SIGNED BY GOVERNOR CHAPTER NUMBER 403 EFFECTIVE DATE: 04/19/93		

HB 444 INTRODUCED BY PAVLOVICH, ET AL.

CONSTITUTIONAL AMENDMENT TO REDUCE COAL TAX TRUST DEPOSIT
TO 25% AND TO REQUIRE THAT 25% BE DEDICATED TO SCHOOL
FINANCE AND MAINTENANCE OF STATE BUILDINGS

2/03	INTRODUCED
2/03	REFERRED TO TAXATION
2/03	FIRST READING
2/10	HEARING
2/18	TABLED IN COMMITTEE

1 House BILL NO. 443
 2 INTRODUCED BY McCallister, Rehder, Pinn
 3 Christopher Beck, Deryn, Delangel
 4 Whom we call Bird, Hallin
 5 Forrest
 6 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A SCHOOL
 7 DISTRICT TO WITHHOLD THE GRADES, DIPLOMA, OR TRANSCRIPTS OF
 8 A PUPIL WHO TRANSFERS TO ANOTHER SCHOOL WITHOUT PAYING FOR
 9 THE PURCHASE OF, LOSS OF, OR DAMAGE TO SCHOOL MATERIALS OR
 10 PROPERTY; PROVIDING NOTICE TO THE PARENT THAT THE PUPIL'S
 11 GRADES, DIPLOMA, OR TRANSCRIPTS WILL BE WITHHELD BY THE
 12 SCHOOL DISTRICT TO WHICH THE PUPIL TRANSFERS UNTIL THE
 13 OBLIGATION HAS BEEN MET; AMENDING SECTION 20-5-201, MCA; AND
 14 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 20-5-201, MCA, is amended to read:

16 "20-5-201. Duties and sanctions. (1) Any A pupil shall:

17 (a) comply with the policies of the trustees and the
 18 rules of the school ~~which-he~~ that the pupil attends;

19 (b) pursue the required course of instruction;

20 (c) submit to the authority of the teachers, principal,
 21 and district superintendent of the district; and

22 (d) be subject to the control and authority of the
 23 teachers, principal, and district superintendent while he
 24 the pupil is in school or on school premises, on his the way
 25 to and from school, or during his intermission or recess.

1 (2) Any A pupil who continually and willfully disobeys
 2 the provisions of this section, shows open defiance of the
 3 authority vested in school personnel by this section,
 4 defaces or damages any school building, school grounds,
 5 furniture, equipment, book belonging to the district, or
 6 harms or threatens to harm another person or his the
 7 person's property ~~shall--be~~ is liable for punishment,
 8 suspension, or expulsion under the provisions of this title.
 9 When a pupil defaces or damages school property, ~~as--defined~~
 10 ~~above--his~~ the pupil's parent or guardian ~~shall--be~~ is liable
 11 for the cost of repair or replacement upon the complaint of
 12 the teacher, principal, superintendent, or any trustee and
 13 the proof of such any damage.

14 (3) In addition to the sanctions prescribed in this
 15 section, the trustees of a high school district may deny a
 16 high school pupil the honor of participating in the
 17 graduation exercise or exclude a high school pupil from
 18 participating in school activities. Such The trustees may
 19 not take action shall--not-be--taken under this subsection
 20 until the incident or infraction causing such the
 21 consideration has been investigated and the trustees have
 22 determined that the high school pupil was involved in such
 23 the incident or infraction.

24 (4) (a) A school district may withhold the grades,
 25 diploma, or transcripts of a pupil who is responsible for

1 the cost of school materials or the loss or damage of school
2 property until the pupil or the pupil's parent or guardian
3 satisfies the obligation.

4 (b) A school district that decides to withhold a
5 pupil's grades, diploma, or transcripts from the pupil and
6 the pupil's parent or guardian pursuant to subsection (4)(a)
7 shall:

8 (i) upon receiving notice that the pupil has
9 transferred to another school district in the state, notify
10 the pupil's parent or guardian in writing that the school
11 district to which the pupil has transferred will be
12 requested to withhold the pupil's grades, diploma, or
13 transcripts until any obligation has been satisfied;

14 (ii) forward appropriate grades or transcripts to the
15 school to which the pupil has transferred; and

16 (iii) at the same time, notify the school district of
17 any financial obligation of the pupil and request the
18 withholding of the pupil's grades, diploma, or transcripts
19 until any obligations are met;

20 (iv) when the pupil or the pupil's parent or guardian
21 satisfies the obligation, inform the school district to
22 which the pupil has transferred.

23 (c) Upon receiving notice that a school district has
24 requested the withholding of the grades, diploma, or
25 transcripts of a pupil under this subsection (4), a school

1 district to which the pupil has transferred shall withhold
2 the grades, diploma, or transcripts of the pupil until it
3 receives notice, from the district that initiated the
4 decision, that the decision has been rescinded under the
5 terms of subsection (4)(a)."

6 **NEW SECTION. Section 2.** Effective date. [This act] is
7 effective on passage and approval.

-End-

Questions From Committee Members and Responses:

REP. DAILY asked the sponsor what the role of the Vo-tech centers and community colleges will be in relation to the other six major units of the university system. REP. BROWN said he would accept the addition of them to the bill. REP. DAILY asked if doing so would increase the number of nominees. REP. BROWN asked Ms. Smith to address the question. Ms. Smith said the six candidates would be nominated by the Vo-techs, the community colleges, and the universities. The total number of candidates would be narrowed down to six in number. REP. DAILY asked if each of the schools would have one vote. Ms. Smith replied they would each have a single vote.

REP. MCCARTHY asked for an explanation of the makeup of the board responsible for deciding on the choice of candidates. Ms. Smith remarked the board consists of each student body president from each school.

Closing by Sponsor:

REP. BROWN noted the Vocational-Technical Schools and community colleges are represented on an existing board, and so are covered in the bill. He suggested the final question is whether the people of Montana are given the chance to decide if this should be given constitutional status or if it should remain only as a statutory requirement.

HEARING ON 443Opening Statement by Sponsor:

REP. MCCULLOCH, House District 96, Billings Heights, explained HB 443 was drafted at the request of several school librarians who currently have no ability to collect funds from students to replace damaged or stolen books and materials. House bill 443 would allow school librarians to have leverage against lost books in an attempt to raise the funds replace them. Originally the bill was only considered for school library materials, but upon further investigation it was discovered the problem exists with all student used school materials. A letter written from senior high school librarians in his district, estimating school losses from materials stolen or not returned, was presented to the committee. He noted when a student leaves to go from one district to another the former district of attendance has no recourse in collecting the "stolen" property. The main portion of the bill is located on page 2, lines 24 and 25, and all of pages three and four. The bill would not prevent any student from graduating, but would allow a school to withhold the grades, diploma, or transcripts of a pupil responsible for the cost of the loss or damage of school materials or property until the pupil or the pupil's parent or guardian satisfies the obligation. He noted it is not a mandate and would be left to the discretion of the

school district. REP. MCCULLOCH stressed although students are entitled to a free public education, books and materials belong to the student for only one year. It is the student's obligation and responsibility to recognize this temporary ownership and return the materials for students to utilize them the following year. School books and materials are the property of taxpayers. It was noted California has a law in place similar to HB 443. A copy of a consent form used by a California high school was distributed for the committee's review. REP. MCCULLOCH noted he would inquire about the impact of the family privacy act on the bill. EXHIBIT 2 AND 3

Proponents' Testimony:

Barbara Ridgeway, Coordinator for Libraries in the Public School System, stated the problem of lost and or stolen library books is dwarfed by the problem related to the disappearance of textbooks, lab equipment, musical instruments, and other school materials. She explained the average national cost in 1990 of a secondary school library book was \$40.00. The average cost of a library book in elementary schools in 1990 was \$13.00. In her district the high school cost of missing books, using half of the 1990 average cost (i.e \$20.00), was a total of over \$5000.00 over a three year period. At the elementary level in an average sized school in Helena the cost of lost library books averaging \$13.00 in price was nearly \$900.00, over a three year period. Ms. Ridgeway noted her support of HB 443 because it would provide schools with the opportunity retrieve money to replace lost materials.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. HARRINGTON told the sponsor his school district has done this for thirty years. He asked if the bill was truly necessary. REP. MCCULLOCH suggested that is further evidence Butte is much farther ahead than the rest of the state.

REP. MCCARTHY observed line 9, page 3 refers to students who transfer within the state. She asked if the bill could cover those students who also transfer out of the state. REP. MCCULLOCH replied he would be more than willing to amend the bill during executive to include those cases.

REP. ELLIS asked if this is something any school can already do with their students. REP. MCCULLOCH replied he did not believe it is presently in statute. REP. ELLIS asked why the bill does not include all cases, instead of just transfer students, if schools cannot regulate students currently enrolled. REP. MCCULLOCH explained it would apply to all students, and stated he had just used transfer students as an example in his opening statement.

REP. SPRING asked the sponsor if he believed the word "may" was strong enough language to encourage compliance with the bill. REP. MCCULLOCH replied it would to allow schools the opportunity to do so. REP. SPRING asked if the withholding of grades, the diploma, or transcripts would prevent a student from entering college. REP. MCCULLOCH replied it may do so but he was not certain.

REP. MILLS asked why students who owe this money should not be kept from graduating. REP. MCCULLOCH said it should be looked at as a simple leverage to try and recover money which has been lost.

Closing by Sponsor: REP. MCCULLOCH closed the hearing on HB 443.

EXECUTIVE ACTION ON HB 473

Motion: REP. DAILY MOVED HB 473 DO PASS.

Discussion: REP. MCCARTHY said there is currently a procedure to allow this to take place in all of the units of the system but said it is sadly abused.

Vote: HB 473 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 398

Motion: REP. MCCULLOCH MOVED HB 398 DO PASS.

Motion/Vote: REP. MCCULLOCH moved to amend HB 398. Motion carried unanimously.

Motion/Vote: REP. MCCARTHY MOVED HB 398 DO PASS AS AMENDED.

Discussion:

REP. MCCARTHY said HB 398 points out the fact children cannot help living where they do. She suggested the committee would be penalizing school districts by not passing the bill.

REP. MILLS remarked he believed the bill should go to the appropriations committee.

REP. BRANDEWIE noted he had amendments to add to the bill.
EXHIBIT 4

REP. HARRINGTON commented it was important to pass this bill as some students attend school out of the state.

REP. ROSE asked about Canadian students who attend Montana schools. He said state ANB money is going to these schools.

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL

DATE

2/10/93

NAME	PRESENT	ABSENT	EXCUSED
REP. SONNY HANSON , CHAIR	✓		
REP. ALVIN ELLIS , VICE-CHAIR	✓		
REP. DIANA WYATT , VICE-CHAIR	✓		
REP. RAY BRANDEWIE	✓		
REP. FRITZ DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. ED DOLEZAL	✓		
REP. DAN HARRINGTON	✓		
REP. JACK HERRON	✓		
REP. BOB GERVAIS		✓	
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. NORM MILLS	✓		
REP. BILL REHBEIN	✓		
REP. SAM ROSE	✓		
REP. DICK SIMPKINS		✓	
REP. WILBUR SPRING	✓		
REP. NORM WALLIN	✓		

February 9, 1993

EXHIBIT 2
DATE 2/10/93
HB 443

To: Representative Scott McCulloch
From: Senior High Librarians *SR, PL*
Re: HB443

Here is what we have to tell you!

General statement:

Schools have no statutory ability to withhold any student records in order to collect outstanding financial obligations a student may have. Examples: text books, library materials, shop fees, musical instruments. This is true when a student drops school, when a student graduates, or when a student remains in school. Legal limitations foil attempts to withhold grades, transcripts, diplomas, or new class schedules.

Some facts and figures:

Students now enrolled at Senior:
13 students owe \$226 in shop fees
79 students owe \$1998 for text books
1 student owes \$175 for text books (teachers have been warned to issue him no books - we don't know how this will hold up.)
1 student owes \$105 for a track warmup
14 students owe \$187 for library books.

Students who dropped or transferred during first semester 1992-93 left school owing \$1033.39 in books, fees etc. - \$182 in library books.

Dave Edwards, who is a music coordinator for the district, gave me the following information.

5 -10 instruments a year are "lost/stolen"
frequently these are scholarship instruments, loaned without a fee to a needy student who leaves without returning the instrument. Estimated cost average - \$500. (a cello may cost \$1000, a clarinet only \$200)
Last year, Edwards knew a student had transferred to a Missoula school. Although the new school officials knew the student had left with SD#2 property, they had no means to collect for the "stolen" article.
Police won't help collect the material: they will not call at homes of students.
Edwards has located material in a local pawn shop - "Riverside Middle School" was painted on the side of the case! The police will help recover the material from the pawn shop - he expects a 2 to 3 month lag.
Edwards identifies this as "my greatest headache."

Some statistics from over time -
from Senior High Library

These books were checked out (not stolen) and not returned.

1985-86	\$279
1986-87	\$447
1987-88	\$249
1988-89	\$229
1989-90	\$277
1990-91	\$211
1991-92	\$135

from Senior registrar

total amount for books checked out (text books and library claims)

drops and transfers	1990-91	\$3,952.92
	1991-92	\$1,916.15

(Sam Matthews, social studies dept chair, went through student records to tabulate these! We did get some people interested.)

from Skyview library

Again, these books were checked out and not returned.

1985-86	31 books	(650 students enrolled)
1986-87	13 books	(800 students enrolled)
1987-88	26 books	(1200 students enrolled)
1988-89	18 books	
1989-90	4 books	
1990-91	5 books	
1991-92	13 books	

(Skyview has automated circulation. Peggy Smith says this reduced the problems because it is easy to check on the students as they checkout from school.)

Average costs per books according to School Library Journal.
March 1992

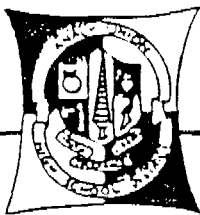
Junior High up	\$14.42
Adult fiction	\$21.88
Adult non fiction	\$45.24
Adult fiction paper back	\$11.29
Adult non fiction paper back	\$17.03

I called Dick Relch for district wide figures. He did not return my call.

Keep us posted.
D.

El Molino High School

ANALY-UNION HIGH SCHOOL DISTRICT



Telephone
707 887-2271

7050 Covey Road, Forestville, California 95436

H. Lewis Alsobrook

Superintendent

Thomas A. Glover

Principal

EXHIBIT 3
DATE 2/10/93
HB 443

DEAR PARENT AND/OR GUARDIAN:

Your signature below represents your responsibility and knowledge of books which will be issued your student upon enrolling at El Molino High School.

According to the California State Education Code 48904.3, schools can now withhold records, transcripts, diplomas, etc. if a students leaves the attending school and owes for books or materials not returned.

This form acknowledges your awareness of conditions of the California State Education Code to withhold records if books and materials are not returned.

Mel Shoemaker
Parent/Guardian
Signature

Mike Shoemaker
Student Signature

9/6/89
Date

REP. DAILY said if a student becomes a brain surgeon it will be a very short time before they make more money than most of the people in the room. He indicated those individuals deserve the pay they receive but should help out the rest in the state for the assistance given to them while in school.

Motion/Vote: REP. DAILY MOVED HB 439 BE TABLED. Motion carried 17 to 1 with REP. DAILY voting no.

EXECUTIVE ACTION ON HB 443

Motion: REP. MCCULLOCH MOVED HB 443 DO PASS.

Discussion:

REP. MCCULLOCH contended HB 443 would not be in violation of the Family Privacy Act. He noted he was waiting for an opinion from a lawyer from OPI as to whether the bill is absolutely necessary. REP. MCCULLOCH indicated he would favor to table the bill if it is indeed determined as unnecessary.

REP. HARRINGTON commented if the bill is necessary he will support it but said the intent of the bill is something done presently.

REP. SPRING asked if a student is charged a deposit when they register on school materials they use. REP. MCCULLOCH replied he did not believe so.

REP. MCCULLOCH asked for the committee's permission to ask Bruce Moerer, MSBA, to comment on the idea school districts are allowed to collect these fees without statutory authority. Mr. Moerer said there are probably a lot of districts which already do this, but whether they have the legal authority to do so is not entirely clear.

REP. WYATT said it was her understanding schools are not able to hold transcripts of students for fees incurred from school material damage or loss. She noted a Great Falls district sends up to three billing notices for such offenses. After the third time, the school is left with little recourse and usually releases the transcript information. She emphasized her support of HB 443.

REP. DOLEZAL said the question is whether or not the districts can do so. He asked if the districts presently doing so have ever been challenged for illegally withholding grades or transcripts. REP. DOLEZAL affirmed his support for what REP. MCCULLOCH is attempting to accomplish.

REP. BRANDEWIE stated there was no harm in passing this out of the committee and onto the floor of the House. He said it "just clarifies and formalizes current practice."

REP. MILLS suggested an amendment should be added to restrict students from being able to graduate if they have not paid all of their bills.

REP. MCCARTHY, in response to REP. MILLS' proposed amendment, referred to line 25, page 2, where it noted a school may withhold the diplomas of students with outstanding bills. She said since a diploma is the certificate of graduation, this might address the representative's concern.

REP. MCCULLOCH said he did not know if REP. MILLS' amendment is within the scope of HB 443. He did not want the bill to go the rules committee.

Vote: HB 443 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 469

Motion: REP. BRANDEWIE MOVED HB 469 DO NOT PASS.

Discussion:

REP. BRANDEWIE said HB 469 could be a good bill if the state had complete equalization in place. He emphasized if HB 469 were to pass at this time it would be no impetus for some schools to consolidate with one another.

REP. REHBEIN stated he opposed the do not pass motion. He said in rural areas the tuition is not a problem because students generally go to the closest school. He noted there are always at least two sides to the issue. In the rural areas of his district it would be advantageous to do away with tuition whereas in the more urban settings the situation is the reverse.

Vote: HB 469 DO NOT PASS. Motion failed 7 to 11 with REPS. BRANDEWIE, DOLEZAL, HERRON, MILLS, SPRING, WYATT, and HANSON voting yes. EXHIBIT 1

Motion/Vote: REP. HARRINGTON MOVED HB 469 DO PASS. Motion carried 10 to 8 with REPS. BRANDEWIE, DOLEZAL, HERRON, MILLS, ROSE, SPRING, WYATT, and HANSON voting no. EXHIBIT 2

EXECUTIVE ACTION ON HB 494

Motion: REP. DOLEZAL MOVED HB 494 DO PASS.

Discussion:

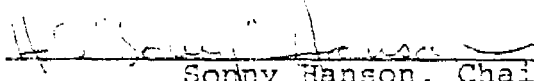
REP. WALLIN asked if the bill requires a fiscal note. REP. HANSON replied a fiscal note would apply to a individual local school district not to the state fund.

HOUSE STANDING COMMITTEE REPORT

February 16, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 443 (first reading copy -- white) do pass .

Signed: 
Sonny Hanson, Chair

a lower rate. It is also important to remember that these are variable interest rates and those rates can change. They are not automatically locking themselves into a savings.

Chair Blaylock said the Board of Investments has to follow the Prudent Man Investment rule and asked if it would be true that the Board of Investments loan rate on these bonds would always be cheaper than what they could get from other investors. Representative Bird said no, but she was sure these schools, with the way money is now, will be very careful in bonding and the situation would take care of itself.

Senator Stang asked if they decide to pick up the bond under INTERCAP and their variable rate goes up, what would be the "out" for the school district and Mr. Moerer said that would be a risk. There would be a possible "out" if they could refinance under a fixed rate when it looked like interest rates were going to go up. At the present time INTERCAP is 3% to 4% lower than what the good market is for bond issues anyway. There is usually a cushion and INTERCAP is enough cheaper than conventional financing that it gives some safety factor. That is part of what the Board of Investments would help them analyze before letting them do it in the first place.

Chair Blaylock said if you allow this, will there become a reluctance on the part of bond buyers to buy school bonds, thinking the districts can get "out" so why should they put their money in them. Mr. Moerer did not see a problem because those bond issues are written that way now and you couldn't do it if the bond issue prohibited it to begin with. The bigger districts have already gotten out of those big bonds, it is the little districts that get caught in the squeeze.

Closing by Sponsor:

Representative Bird said when this bill was heard in the House, Don Waldron REA, Gene Huntington, Manager of Public Financing for Dain Bosworth Inc. and Loren Frazier, SAM, also testified as proponents for this bill, there were no opponents in the House Committee and they received a comfortable vote on the House floor. She said there was a note that came out of the House they can make ten year loans but the Board cannot empower the school districts to do anything more than they normally do.

EXECUTIVE ACTION ON HOUSE BILL 403

Motion/Vote: Senator Hertel moved House Bill 403 BE CONCURRED IN. Motion PASSED with Senators Waterman, Wilson, Yellowtail and Brenden absent. Senator Stang to carry the bill on the Senate floor.

HEARING ON HOUSE BILL 443

Opening Statement by Sponsor:

Representative McCulloch, House District 96, Billings, said this bill was introduced at the request of several librarians around the state who currently have no ability to collect funds from students to replace damaged or stolen books or materials. This bill could be used as leverage to receive funds for this purpose. He handed out materials in support of the bill, (exhibits 2, and 3) and suggested some amendments. (exhibit 4)

Proponents' Testimony:

Barbara Ridgway, Coordinator of Libraries, and speaking for herself, told of the losses in school districts. She said a company which nationally calculates average costs for the books, in 1990 calculated the average cost of an elementary book to be \$13.01 and a secondary book \$40.61. In her district a three year loss in an average size elementary school was \$819.00 and in a small elementary school \$494.00; this includes only library materials and does not take into account text books and other materials. At the secondary level in three years the loss was \$5,180 and is a substantial problem to the schools.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Brown said the kid can go ahead and graduate, but if he/she transfers before he/she graduates and owes the school district money, then grades, diploma and transcripts can be withheld. He was curious as to what kind of an imposition this would be on the kid. Representative McCulloch said it would vary from district to district. It was brought up in the House Education Committee that this is already being done, the policy is already in place. Senator Brown asked if they could get into legal trouble for doing this at the present time and Representative McCulloch said apparently they could. He had talked to Jack Copps, OPI, and was told that is the policy here.

Senator Brown said if he wanted to go into the army he might need the proof of a high school diploma, or if he wanted to transfer to another school they would want his grades to follow. He asked if it would it make it impossible to get into the other school. Representative McCulloch said no, and that is why he has added the appeals process. He said he was not doing this to create any kind of hardship for dysfunctional families or low income families, and that is why they set up the appeals process.

Senator Brown said he was trying to understand what kind of a sanction this is. If the kid wanted to go into the University system, is there a requirement to have a transcript or something to show the person graduated from a high school, that would be a reason for the bill to be paid. Representative McCulloch said that would be additional leverage.

Senator Toews said you cannot even transfer between school systems without your grades transferring with you. It is effective to use in our schools. He said they had used it in a private school system and it was very effective.

Senator Brown said he did not know what they would do if they got a kid in the middle of the year and did not know what to base the grades on or what the student had passed or not passed. Representative McCulloch said the school district would still get that information. It is in the language of the bill, they can not release the information to the student, but the district would get it so they could properly educate that individual.

Senator Waterman was concerned about charging students fees. The argument is that there is always money available through civic groups or whatever to cover the cost of the fees to be in football or whatever, or someone would donate the instrument so they could be in band. She said there are a number of students because of pride or whatever, that do not come forward. She would differentiate between fees and books. Those things that the school district supplies, we have a right to expect them to take care of them and return them when they leave. She really questioned the shop fees and those fees we continue to add on. It is not unusual for kids in Helena to have to come up with \$300 in fees to cover things. She was concerned as to whether this bill covered those fees. Representative McCulloch said that would be left up to the individual district and that was his purpose of putting that in the bill so that districts would have the ability to establish what they wanted to charge and what they want to do including the policy to pick it up.

Senator Waterman said if the district decides they are going to fees, which more and more of them are doing, and we get all the pressure about not funding athletics etc., we will see districts moving more and more to fees. A district could decide to assess heavy fees for kids to participate in activities and then withhold the diploma for kids who leave without paying, she was nervous over this possibility. Representative McCulloch said that would be where the appeals process would come into play. Senator Waterman asked if they would appeal it to the same board and was told yes.

Senator Stang said this bill does not say anything about fees. Senator Waterman said that is why she asked, because he used the shop fees as an example.

Senator Stang told of an incident that happened in one of his

school districts where a kid transferred, the Superintendent refused to send the kid's grades for four weeks and as a result the kid was not eligible for basketball for between 4 and 6 weeks. He asked if this bill could be used in that sense for some of these Superintendents personal vendetta. Representative McCulloch said he would be willing to sit down with members who have major concerns to try to work this out.

Chair Blaylock asked if school districts can do this already and Representative McCulloch said they can but there is nothing in the statute to back them up.

Chair Blaylock asked why we should pass a law declaring that schools can do something they can already do and Representative McCulloch said in his district and in others they feel that leverage is not ample enough.

Senator Fritz pointed out stealing a library book is serious, and he felt this was pretty light treatment.

Senator Stang said in Section 1, part A it says "Duties and Sanctions. (1) A pupil shall comply etc. If that school district should see fit to make this a policy, he could not see why we need this bill. Representative McCulloch said in talking to the OPI lawyer, they told him there is nothing to back that kind of thing up and if someone should appeal it, the school could lose. Senator Stang said to him the constitution of the schools in the state of Montana that leaves local control up to the school districts, would take precedence.

Chair Blaylock asked if there had been court cases on this issue and Representative McCulloch said no, not that he was aware of.

Senator Brown said the purpose behind the bill is that even though some school districts follow policy similar to this now, there is a chance that some parent or student could bring legal action saying they had no right to do this. Representative McCulloch said that was correct, and that some districts don't do it because they do not feel there is any legal authorization.

Closing by Sponsor:

Representative McCulloch said he would talk to Senators who have concerns to see if there is some way to work them out.

HEARING ON HOUSE BILL 410

Opening Statement by Sponsor:

Representative Simpkins, House District 39, Great Falls, said this is a bill to help teachers to comply with the state laws and to implement the desires of the state Board of Education. This bill makes one additional duty assigned to the Board of Trustees. He said the purpose of the bill is explained on lines 12 through

ROLL CALL

SENATE COMMITTEE EDUCATION

DATE _____

3/4/92

[illegible]

TO EDUCATION
EXHIBIT NO. 2
DATE 3/8/93
BILL NO. HB 443

February 9, 1993

To: Representative Scott McCulloch
From: Senior High Librarians *SR, PL*
Re: HB443

Here is what we have to tell you!

General statement:

Schools have no statutory ability to withhold any student records in order to collect outstanding financial obligations a student may have. Examples: text books, library materials, shop fees, musical instruments. This is true when a student drops school, when a student graduates, or when a student remains in school. Legal limitations foil attempts to withhold grades, transcripts, diplomas, or new class schedules.

Some facts and figures:

Students now enrolled at Senior:
13 students owe \$226 in shop fees
79 students owe \$1998 for text books
1 student owes \$175 for text books (teachers have been warned to issue him no books - we don't know how this will hold up.)
1 student owes \$105 for a track warmup
14 students owe \$187 for library books.

Students who dropped or transferred during first semester 1992-93 left school owing \$1033.39 in books, fees etc. - \$182 in library books.

Dave Edwards, who is a music coordinator for the district, gave me the following information.

5 -10 instruments a year are "lost/stolen"
frequently these are scholarship instruments, loaned without a fee to a needy student who leaves without returning the instrument. Estimated cost average - \$500. (a cello may cost \$1000, a clarinet only \$200)
Last year, Edwards knew a student had transferred to a Missoula school. Although the new school officials knew the student had left with SD#2 property, they had no means to collect for the "stolen" article.
Police won't help collect the material; they will not call at homes of students.
Edwards has located material in a local pawn shop - "Riverside Middle School" was painted on the side of the case! The police will help recover the material from the pawn shop - he expects a 2 to 3 month lag.
Edwards identifies this as "my greatest headache."

Some statistics from over time -
from Senior High Library

These books were checked out (not stolen) and not returned.

1985-86	\$279
1986-87	\$447
1987-88	\$249
1988-89	\$229
1989-90	\$277
1990-91	\$211
1991-92	\$135

from Senior registrar

total amount for books checked out (text books and library claims)

drops and transfers	1990-91	\$3,952.92
	1991-92	\$1,916.15

(Sam Matthews, social studies dept chair, went through student records to tabulate these! We did get some people interested.)

from Skyview library

Again, these books were checked out and not returned.

1985-86	31 books	(650 students enrolled)
1986-87	13 books	(800 students enrolled)
1987-88	26 books	(1200 students enrolled)
1988-89	18 books	
1989-90	4 books	
1990-91	5 books	
1991-92	13 books	

(Skyview has automated circulation. Peggy Smith says this reduced the problems because it is easy to check on the students as they checkout from school.)

Average costs per books according to School Library Journal.
March 1992

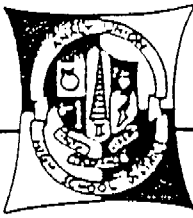
Junior High up	\$14.42
Adult fiction	\$21.88
Adult non fiction	\$45.24
Adult fiction paper back	\$11.29
Adult non fiction paper back	\$17.03

I called Dick Reich for district wide figures. He did not return my call.

Keep us posted.
D.

El Molino High School

ANALY-UNION HIGH SCHOOL DISTRICT



Telephone
707 887-2271

H. Lewis Alsobrook

Superintendent

Thomas A. Glover

Principal

7050 Covey Road, Forestville, California 95436

SENATE EDUCATION
EXHIBIT NO. 3
DATE 3/8/93
BILL NO. NB 443

DEAR PARENT AND/OR GUARDIAN:

Your signature below represents your responsibility and knowledge of books which will be issued your student upon enrolling at El Molino High School.

According to the California State Education Code 48904.3, schools can now withhold records, transcripts, diplomas, etc. if a students leaves the attending school and owes for books or materials not returned.

This form acknowledges your awareness of conditions of the California State Education Code to withhold records if books and materials are not returned.

Mel Shoemaker
Parent/Guardian
Signature

Mike Shoemaker
Student Signature

9/6/89
Date

EXHIBIT NO. 4
DATE 3/8/93
BILL NO. HB 443

Amendments to House Bill No. 443
3rd Reading Copy

Requested by Representative McCulloch
For the Senate Committee on Education

Prepared by Andrea Merrill
March 4, 1993

1. Title, line 11.

Following: "MET;"

Insert: "REQUIRING TRUSTEES TO ADOPT A POLICY REGARDING AN APPEAL
PROCESS FOR DECISIONS TO WITHHOLD A PUPIL'S GRADES, DIPLOMA,
OR TRANSCRIPTS;"

2. Page 3, line 15.

Strike: "and"

3. Page 3, line 22.

Following: "transferred"

Insert: "; and

(v) adopt a policy regarding a process for a pupil or the
pupil's parent or guardian to appeal the school district's
decision to request that another school district withhold a
pupil's grades, diploma, or transcripts"

said this did not change anything, just put this where it belonged. In a couple places in the bill the word "province" has been added, in some we did not and that will be taken care of.

Representative Johnson thanked the committee and those participating in combining these bills and said he appreciated the work they had done.

Motion/Vote: Senator Fritz moved the committee give Ms. McClure permission to make the above changes in the bill. The motion CARRIED unanimously, Senator Stang was absent.

Motion/Vote: Senator Fritz moved all the amendments represented in the "gray" bill. Motion CARRIED, Senator Stang absent.

Motion/Vote: Senator Fritz moved House Bill 469 BE CONCURRED IN AS AMENDED. Motion CARRIED unanimously with Senator Stang absent and Senator Waterman to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 424

Motion/Vote: Senator Fritz moved House Bill 424 BE TABLED. Motion CARRIED unanimously, Senator Stang absent.

EXECUTIVE ACTION ON HOUSE BILL 398

Motion/Vote: Senator Fritz moved House Bill 398 BE TABLED. Motion carried unanimously with Senator Stang being absent.

EXECUTIVE ACTION ON HOUSE BILL 202

Motion: Senator Waterman moved House Bill 202 BE CONCURRED IN AS AMENDED.

Discussion: Chair Blaylock said this is the bill that our amendment took out the attendance centers, and this bill is needed to make some changes requested by OPI.

Vote: The motion CARRIED unanimously with Senator Stang being absent. Senator Toews to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 210

Senator Toews said the committee had taken care of House Bill 202 and felt there was no further need for House Bill 210.

Motion/Vote: Senator Toews moved House Bill 210 BE TABLED. Motion CARRIED unanimously, Senator Stang was absent.

EXECUTIVE ACTION ON HOUSE BILL 443

Motion/Vote: Senator Fritz moved to accept the amendments

absent.

Motion/Vote: Senator Wilson moved House Bill 443 BE CONCURRED IN AS AMENDED. Motion CARRIED unanimously. Senator Stang was absent. Senator Wilson will carry the bill.

Senator Waterman said this would assure that students were not held responsible for fees in this bill and Ms. McClure said as it was explained to her it was only property damage.

EXECUTIVE ACTION ON HOUSE BILL 473

Discussion: Chair Blaylock said all members of the committee had signed the letter he had written to the Governor and had hand delivered the letter. The Governor was very agreeable and had told the students who are going to submit the six names from which he would pick the student member.

Senator Brenden asked if by rule, we still had to take care of this. He asked if we were all in concurrence in the committee as to what was needed. Chair Blaylock said discussion was probably needed.

Motion: Senator Yellowtail moved House Bill 473 BE TABLED.

Discussion: Senator Fritz said they had a ruling from the President of the Senate today that it was proper to table a constitutional amendment. The President ruled and the ruling was not appealed, so at this point it still stands.

Vote: The motion to table HB 473 CARRIED unanimously with Senator Stang being absent.

EXECUTIVE ACTION ON HOUSE BILL 527

Motion: Senator Brown moved HB 527 BE NOT CONCURRED IN.

Discussion: Senator Brown said this is another proposal for a constitutional amendment that would essentially give the Legislature the supervisory authority over the University System. He viewed this as an impractical approach to a problem he was not sure existed and felt a case for criticism to some extent, could be made of any supervisory commission or board in state government. He believed this bill goes too far and would be a real mistake in public policy to pass this bill and take a chance on people amending the constitution to do this.

Senator Hertel asked whether this bill should be a do not concur or should be tabled. Senator Brown said Representative Brown indicated to the committee he wanted a hearing on the floor. He said he had received 74 votes for this bill in the House. He did not know what was in the back ground of that, but there was probably a good story behind it. The fact remains that if he

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 20, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 443 (first reading copy -- blue), respectfully report that House Bill No. 443 be amended as follows and as so amended be concurred in.

Signed: Chet Blaylock
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 11.

Following: "MET;"

Insert: "REQUIRING TRUSTEES TO ADOPT A POLICY REGARDING AN APPEAL
PROCESS FOR DECISIONS TO WITHHOLD A PUPIL'S GRADES, DIPLOMA,
OR TRANSCRIPTS;"

2. Page 3, line 15.

Strike: "and"

3. Page 3, line 22.

Following: "transferred"

Insert: "; and

(v) adopt a policy regarding a process for a pupil or the pupil's parent or guardian to appeal the school district's decision to request that another school district withhold a pupil's grades, diploma, or transcripts"

-END-

SENATE EDUCATION
EXHIBIT NO. 4
DATE 3/8/93
BILL NO. H B 443

Amendments to House Bill No. 443
3rd Reading Copy

Requested by Representative McCulloch
For the Senate Committee on Education

Prepared by Andrea Merrill
March 4, 1993

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SENATE EDUCATION
EXHIBIT NO. 3
DATE 3/19/93
BILL NO. 443